



California Integrated Waste Management Board

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Environmental
Protection

March 26, 2003

California Energy Commission
Dockets Office
Attn: Docket No. 03-RPS-1078
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

RE: Renewable Portfolio Standard Implementation (Docket No. 03-RPS-1078)

As Executive Director of the California Integrated Waste Management Board (CIWMB), I would like to offer the following comments regarding the Energy Commission's implementation of California's Renewable Portfolio Standard (RPS) pursuant to Senate Bill 1078 (Sher, Chapter 516, Statutes of 2002). The CIWMB has a clear statutory interest in those aspects of RPS implementation related to municipal solid waste, a topic of discussion in this Docket. My comments are particularly related to Questions 33 and 34 of the Docket. These questions pertain to the nexus among and interpretation of SB 1078, its companion bill SB 1038 (Sher, Chapter 515, Statutes of 2002), and Assembly Bill 2770 (Matthews, Chapter 740, Statutes of 2002).

For the past 2½ years, the CIWMB has been exploring the use of non-combustion "conversion" technologies that might take materials otherwise destined for landfills and instead use them in the production of energy, ethanol, and other products. One such technology was defined last year as "solid waste conversion" in SB 1038 and, in virtually identical language, as "gasification" in AB 2770. The Energy Commission's deliberations regarding the eligibility of this technology within the SB 1078 RPS framework will have significant market implications and thus are of vital interest to the CIWMB.

Given this clear nexus between the Energy Commission's RPS implementation and the CIWMB's interest in conversion technologies and its specific authority for permitting solid waste facilities, it is vitally important that the CEC and the CIWMB closely communicate on this aspect of RPS implementation. I ask that you add the names on the enclosed attachments to your mailing list for this and related Dockets, that you engage in direct discussions with these individuals, and that you consider formal consultation with the CIWMB as part of your findings regarding facilities that use municipal solid waste.

California Environmental Protection Agency

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The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web site at <http://www.ciwmb.ca.gov/>.

The following more specific comments focus on Docket Questions 33 and 34.

Comment 1: Docket Question 33

Question 33: How does the Energy Commission determine if a solid waste conversion technology meets the requirements in SB 1078?

The term “solid waste conversion” defined in SB 1038 and the term “gasification” defined in AB 2770 are, with a few minor exceptions, identical to each other. Thus, it is our interpretation that “solid waste conversion” in SB 1038 specifically refers to “gasification” as narrowly defined in AB 2770. Any “solid waste conversion” facility complying with SB 1038’s definition should be considered an “in-state renewable electricity generation technology” and in compliance with the SB 1078 definition of “eligible renewable energy resource.”

In general, we suggest that any final determination on this issue be made in consultation with the CIWMB. One major question concerns the provision in the SB 1038 “solid waste conversion” definition regarding no discharges of air contaminants or emissions. We interpret this provision as referring to the actual conversion process itself, in which feedstock is converted into gas, but not as referring to subsequent stages in which gas is run through a turbine to produce electricity. The second major question concerns the SB 1038 provision regarding removal of recyclables, which is discussed in Comment #2 below.

Comment 2: Docket Question 34

Question 34: In defining “solid waste conversion” technologies that are to remove all recyclable materials and green waste materials from the solid waste stream “to the maximum extent feasible,” should this refer to “technically and economically feasible,” and how should “extent” be quantified?

We believe that the term “maximum extent feasible” should refer to both technical and economic feasibility, i.e., that materials can be recycled cost-effectively within the relevant regional, national, or global marketplace. We also believe that a proponent moving forward with a solid waste conversion facility will have made its own determination that removing all recyclable materials and green waste materials is both technically and economically feasible, otherwise it would not pursue the project.

With respect to quantifying “extent”, we suggest that the Energy Commission consult with the CIWMB on a project-by-project basis. As I stated earlier, the CIWMB has been exploring the use of conversion technologies for the past 2½ years and has begun drafting regulations for the permitting of conversion technology facilities. The regulations may require that the owner or operator of such a facility ensure that recyclable materials and marketable green waste

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compostable materials be removed from the solid waste stream prior to the conversion process and certify that those materials will be recycled or composted. This is also a requirement in the definition of “solid waste conversion” in SB 1038. We are in the early stages of the regulatory process regarding permitting of conversion technology facilities and have not yet decided whether and how a facility owner or operator would provide such a certification.

Given the narrow definition of “solid waste conversion” in SB 1038, we anticipate that only a few such facilities per year may seek eligibility status in the RPS framework. Depending on how our conversion technology permitting regulations ultimately address removal of materials to the maximum extent feasible, then CIWMB staff would likely work with proponents to ascertain that these materials are indeed being removed prior to conversion. This information would be part of our permitting discussions. We would be happy to discuss how to best share this information with the Energy Commission in its project-specific deliberations on RPS eligibility.

In closing, we appreciate the opportunity to provide comments regarding this issue and look forward to working with you. If you have specific questions about these comments, I would be happy to meet with you at your convenience.

Sincerely,

Mark Leary
Executive Director

Attachments

Attachment D

**California Energy Commission
Service List Form**

**Docket No. 03-RPS-1078
RPS Proceeding**

Persons interested in receiving docketed information in the RPS Proceeding must complete this Service List Form and return it by mail to the address below.

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